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It being impracticable to express in these columns the divergent views of the thousands of members of the American Peace Society, full responsibility for the utterances of this magazine is assumed by the Editor.

OUR SELF-EVIDENT COURSE

LAW and the interpretation of law, of such, where diplomacy and arbitration have failed, is the beginning and the end of any hopeful program for the maintenance of international peace. In our last number we pointed out the natural next step for the nations to be a Conference of the Nations for the establishment of a more effective international law. We now urge also the need of a Supreme Court of the nations for the judicial settlement of international disputes arising under that law.

It is true that there is nothing new in this proposal. William Ladd, founder of this society, in his introduction to his famous "Essay on a Congress of Nations," wrote, under date of February, 1840, these words:

"My claim to originality in this production rests much on the thought of separating the subject into two distinct parts, viz:

"1. A congress of ambassadors from all those Christian and civilized nations, who should choose to send them, for the purpose of settling the principles of international law by compact and agreement, of the nature of a mutual treaty, and also of devising and promoting plans for the preservation of peace and meliorating the condition of man.

"2. A court of nations, composed of the most able civilians in the world, to arbitrate or judge such cases as should be brought before it by the mutual consent of two or more contending nations, thus dividing entirely the diplomatic from the judicial functions, which require such different, not to say opposite, characters in the exercise of their functions. I consider the congress as the legislature and the court as the judiciary in the government of nations, leaving the functions of the executive with public opinion, 'the queen of the world.' This division I have never seen in any essay or plan for a congress or diet of independent nations, either ancient or modern, and I believe it will obviate all the objections which have been heretofore made to such a plan."

The wisdom of these words and of Mr. Ladd's argument which follows, has been acknowledged by writers the world over; but, what is more significant, by the events of history. Failure to recognize the truth as set forth by Mr. Ladd, by his followers and by the action of States in 1899 and 1907, ended in a high-minded but misguided work at the Paris Peace Conference and to the undoing of that work in the United States Senate. In the race between the advocates of force and the advocates of law, a race covering a major part of the last century, the advocates of force recruited their greatest sprinters in Germany; but the advocates of law also ran a good race, and they are still in the running. The advocates of force are out of breath just now, beside the track, defeated. The organized force of the free nations found it necessary to go over to their comrades in central Europe, who were found to be running too well, and to halt them. The military athletes, squabbling among themselves, have shown the futility of their methods of training. But the runners under law are pegging away, and the course of political history indicates clearly that these latter shall surely win the race.

For the establishment of peace between States the ages reveal to us two self-evident methods, and, where friendly composition fails, only two. These methods are the methods of law, the methods of the interpretation of the law; law and courts for the definition of the law; a law-making body for the nations, and a law-interpreting body for the nations. That is the way; and there is no other way.

To substantiate our confidence in the ultimate victory of law and judicial settlement as the means of avoiding war it is not necessary to rely upon hearsay evidence or idealism alone. Mr. Elihu Root, at the time Secretary of State, gave specific instructions to the American delegates to the Second Peace Conference, held at The Hague in 1907, that they should bend every effort toward the

creation of a truly permanent International Court of Justice. That act by Mr. Root took the whole matter from the realm of academic discussion and placed it in the hands of practical politics. Great Britain, Germany, and the United States, supported by France, submitted a joint project to the Conference. A draft convention of thirty-five articles was in consequence adopted, providing for the organization, jurisdiction, and procedure of such a tribunal. If any one doubt the care and wisdom with which the representatives of forty-four nations of the world went about the business, let him read those thirty-five articles signed October 18, 1907. They are interesting and convincing reading.

Those familiar with that most important of international documents, the Convention for the Pacific Settlement of International Disputes, adopted by the First Hague Conference in 1899, a document which we are printing again in its original form in this number of the ADVOCATE OF PEACE, will observe the reasonableness of Mr. Root's instructions. These instructions, under date of May 31, 1907, contain the following significant and self-explanatory words:

"There can be no doubt that the principal objection to arbitration rests not upon the unwillingness of nations to submit their controversies to impartial arbitration, but upon an apprehension that the arbitrations to which they submit may not be impartial. It has been a very general practice for arbitrators to act, not as judges deciding questions of fact and law upon the record before them under a sense of judicial responsibility, but as negotiators effecting settlements of the questions brought before them in accordance with the traditions and usages and subject to all the considerations and influences which affect diplomatic agents. The two methods are radically different, proceed upon different standards of honorable obligation, and frequently lead to widely differing results. It very frequently happens that a nation which would be very willing to submit its differences to an impartial judicial determination is unwilling to subject them to this kind of diplomatic process. If there could be a tribunal which would pass upon questions between nations with the same impartial and impersonal judgment that the Supreme Court of the United States gives to questions arising between citizens of the different States, or between foreign citizens and the citizens of the United States, there can be no doubt that nations would be much more ready to submit their controversies to its decision than they are now to take the chances of arbitration. It should be your effort to bring about in the Second Conference a development of the Hague tribunal into a permanent tribunal composed of judges who are judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility. These judges should be so selected from the different countries that the different systems of law and procedure and the principal languages shall be fairly represented. The court should be made of such dignity, consideration, and rank that the best and ablest jurists will accept appointment to it, and that the whole world will have absolute confidence in its judgments."

That these "instructions" were faithfully and effectively observed will appear from the first sentences of the Draft Convention relative to the creation of a Judicial Arbitration Court, taken from the final act of the Second Hague Conference, signed without reservation by the plenipotentiaries of forty-three nations, October 18, 1907. The preamble and first article of this draft read:

"The Conference recommends to the signatory Powers the adoption of the annexed Draft Convention for the creation of a Judicial Arbitration Court, and the bringing it into force as soon as an agreement has been reached respecting the selection of the judges and the constitution of the court.

"With a view to promoting the cause of arbitration, the contracting Powers agree to constitute, without altering the status of the Permanent Court of Arbitration, a Judicial Arbitration Court, of free and easy access, composed of judges representing the various juridical systems of the world and capable of insuring continuity in jurisprudence of arbitration."

We may readily agree with James Brown Scott, technical delegate from the United States to that Conference, now returning to the United States after a year of service as technical delegate of the United States to the Peace Conference at Paris, that, "the presentation of the proposal by the American delegation to and its adoption by the Second Conference was an international event. The establishment of the court is a matter of international policy, and its success seems only to be a question of time; for even although its creation be delayed, and although many of its partisans now living may not see it called into being, the years that will in any event elapse before it administers justice between nations, while important to the individual, are as nothing in the lives of nations."

The nations considered their plan for an International Court of Justice seriously. It being generally believed that any group of nations, without waiting for the others, might set up such a court for themselves, representatives of the United States, France, Germany, and Great Britain, as a result of two meetings in 1910,—one in Paris in the month of March and the other at the Hague in the month of July—submitted draft conventions for the establishment and for the putting into force such a court for themselves. But the governments, feeling perhaps that a larger number of nations should be included in the plan, and noting that the International Court of Prize, out of which it was proposed to develop the Court of Justice, had not been set up, deferred the establish-

ment of the Court. But in January, 1914, we now know, there was an extended movement, involving nine of the leading nations of the world, for the establishment of such a tribunal. We know that such a project was favored by the Taft Administration, by Philander C. Knox, then Secretary of State, by Robert Bacon, successor to Mr. Knox, and that it is favored today by Robert Lansing, the present Secretary of State. We know that both Mr. Root and Mr. Bacon urged the formation of such a Court for a limited number of nations as late as January, 1914. We know that the Foreign Minister of Holland had agreed to invite nine of the leading nations to co-operate in the establishment of such a Court in accord with suggestions outlined at considerable length by James Brown Scott, and that the nine nations were favorable to the plan. We know that Serbia, under date of July 25, replying to the Austrian demands of two days before, remarked, in Section 10 of that reply, that "if the imperial and royal government is satisfied with this reply the Serbian Government . . . is ready as always to accept a pacific settlement either by referring this question to the decision of the international tribunal at The Hague," etc. Since this related to the only point left in controversy between Austria and Serbia, Serbia's reference here, of course, was to the Court of Arbitration, which is in fact not a court. If, however, there had been a genuine Court of Justice our personal view is that Austria would have felt a compulsion to accept Serbia's offer. If our judgment is sound, then the absence of such a Court at The Hague stands out now in all its naked tragedy. We know that after the World War had been waged for over a year that the naval appropriations bill (H. R. 15947) contained the following significant passages:

"It is hereby declared to be the policy of the United States to adjust and settle its international disputes through mediation or arbitration, to the end that war may be honorably avoided. It looks with apprehension and disfavor upon a general increase of armament throughout the world, but it realizes that no single nation can disarm, and that without a common agreement upon the subject every considerable power must maintain a relative standing in military strength.

"In view of the premises, the President is authorized and requested to invite, at an appropriate time, not later than the close of the war in Europe, all the great governments of the world to send representatives to a conference which shall be charged with the duty of formulating a plan for a court of arbitration or other tribunal, to which disputed questions between nations shall be referred for adjudication and peaceful settlement, and to consider the question of disarmament and to submit their recommendation to their respective governments for approval. The President is hereby authorized to appoint nine citizens of the United States, who, in his judgment, shall be qualified for the mission by eminence in the law and by devotion to the cause of peace, to be representatives of the United States in such conference. The President shall fix the compensation of said representatives, and such secretaries and other employees as may be needed. Two hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated and set aside and placed at the disposal of the President to carry into effect the provisions of this paragraph.

"If at any time before the construction authorized by this act shall have been contracted for there shall have been established, with the co-operation of the United States of America, an international tribunal or tribunals competent to secure peaceful determinations of all international disputes, and which shall render unnecessary the maintenance of competitive armaments, then and in that case such naval expenditures as may be inconsistent with the engagements made in the establishment of such tribunal or tribunals may be suspended, when so ordered by the President of the United States."

We know that the Covenant of the League of Nations agreed to in Paris provides in Article 14 as follows:

"The Council shall formulate and submit to the members of the League for adoption plans for the establishment of a Permanent Court of International *Justice*. The court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly."

Because of the facts, herein all too briefly enumerated, we feel justified in the hope that governments backed by their peoples shall turn soon to the Conference of the Society of Nations, where, under laws established by themselves, they will provide for that most beneficent expression of human liberty, already subscribed to by them, a Supreme Court of the World.

IS THE AMERICAN LEGION TO FAIL?

THE potential membership of the American Legion is more than 4,000,000 men who served in the war. Already 1,000,000 have been enrolled; a national organization has been built up, and a successful national convention held. In a variety of ways the weight of numbers which the Legion has is being cast for or against some causes and possibly some persons. Congress and the Treasury Department already have been the subject of "direct action," and public officials generally now know that they must reckon with the Legionnaires.

Society at large cannot look upon this new agency in national politics without considerable solicitude, lest it fall under the control of administrators too small in caliber for their job, and lest it use its power, however conscientiously, to make more difficult restoration of sanity and good-will in the nation and among the nations.